

## TIMORESE POLITICAL PRISONERS' LETTER TO THE INTERNATIONAL COMMISSION OF JURISTS

"28 September 1993, The Central Prison, Dili

The Chairman  
International Commission of Jurists

Excellency,

We, the political prisoners of East Timor, survivors of the 12 November 1991 tragedy, are taking the liberty and have the honour of addressing you to bring to your attention our juridical process, orchestrated by the occupying government, as follows:

(...)

II. East Timorese people tried for political offences by Courts of the Indonesian Government of Occupation.

A. The pre-trial period:

In the wake of the 12 November 1991 tragedy, the occupying government sought a way to offset the international community's demands, justifying the savagery committed by its troops against the demonstrators. To this end it chose a few East Timorese people to be used as scapegoats. We were among those chosen.

The pre-trial proceedings took a very long time. During the first stage, which lasted a month, we were interrogated by members of Indonesian military intelligence. The interrogations were long and intensive, starting at 7 am, and sometimes even lasted until 3 am the following day. Throughout that period we were subjected to ill-treatment and severe psychological pressure. After a month, the results of this pre-trial investigation by military intelligence were passed on to a commission called "Pro-Justitia". The victims to be tried by the court had been selected. This Commission, composed of members of Police Intelligence as well as Intelligence from the Attorney General's Office, was then to study the cases and how to present them, conditioning them to the Indonesian Penal Code.

The second stage of the pre-trial proceedings, investigated by the "Pro-Justitia" Commission, lasted longer - for two months. This was because of the constant consultations, and elaboration by the military authorities and by the BAIS in Jakarta. They study and prepare the process, adapting it to the law in force, ie. Law No. 11 of 1961 (subversion) and Law No. 106 and 110 (separatism), and adjusting it according to the occupier's political aims.

The investigations at this second stage became more intense, involving different commissions from the Attorney General's Office in Jakarta, and the BAIS. Prisoners were subjected to questioning for over 12 hours a day (except on Sundays), by five officials at a time.

Furthermore, throughout the entire pre-trial proceedings, the accused never had access to defence lawyers although, on the Police Commander's instructions, a local government lawyer was available.

B. The Judicial Proceedings

After undergoing various transformations directed by the BAIS and the military authorities, and once finally found to be adequate, the case was remitted to the Court for trial.

After some time, the accused were brought to Court. On the very first day of the trial, the problem of choice of lawyers arose: the Dili Court rejected out of hand the lawyers (who belonged to the YLBHI) chosen by the defendants' families, claiming that a local lawyer had already been made available to the defendants. Although the accused persisted in their choice of the YLBHI lawyers, the Court upheld its rejection, forcing the YLBHI lawyers to lodge a protest before the Supreme Court of Jakarta. This controversy confirmed the previous approaches which had been made to us by delegates from the Attorney General's Office. They had warned us that the sentence would be greater if we defendants' chose YLBHI lawyers, considering that the problem might attract national and international attention if the YLBHI were involved, in which case the Government's political designs would be put in jeopardy. The judicial authorities also tried to tempt the defendants, saying that a lesser sentence would be passed if they did what they were told by said authorities, such as not arguing their case, admitting their guilt, and asking the President

for a pardon. All these enticements and warnings were coldly rejected by the defendants, who opted to uphold the truth in spite of the consequences.

It is worth noting that the trial proceedings in the Court took longer than is customary. This was meant to show to the world that trial proceedings are carried out according to the established norms. The occupying government announced that the trial would be open to everyone, without exception. What in fact happened was that the civilian population and even some members of the prisoners' families, were stopped from attending. The courtroom was actually full of members of civilian and military Intelligence, and others of similar kind.

#### The Witnesses:

The first witnesses called were the members of the group themselves. They were called one by one to give their evidence, and stated what the activities of the group were. It so happens that, while being investigated as witnesses, they were threatened on several occasions with being severely punished under the law, if their statements in court did not correspond to those made previously during the pre-trial proceedings. The witnesses themselves had already been sentenced by the Court of Judges during that investigation, and had also been threatened that their families would be constantly harassed in the future, treated with ridicule and mockery, and subjected to other forms of psychological coercion.

In addition to these witnesses from the group itself, other witnesses were presented by the SGI, notably:

- demonstrators captured and imprisoned by the SGI, who had been terrorised with threats, and ordered to give their testimony in court;

- individuals belonging to the group of military forces who had been involved in the Santa Cruz massacre.

#### C. The Defendants' Case

The verdict of the Occupier's court was very far from complying with juridical objectivity, because the criminals of the massacre were called as witnesses, while the victims of the massacre were the accused. On this basis, the defendants refused to accept the verdict and, as a form of protest, they resolved to appeal to the Superior Court, even though a decision of irrevocability from the latter was a foregone conclusion.

The status quo of East Timor does not give the occupying government the right to try East Timorese people for political or separatist offences. The right of the East Timorese people established by the UN resolutions affirms the legality of the national resistance's fight against the foreign domination, which illegally occupies the territory of East Timor using armed/military aggression, and against the tyranny of said occupying Government which is oppressing the people of East Timor, and preventing them from freely choosing their own destiny.

The impasse in which East Timor has been placed, and the incapacity of the UN (on which the problem of East Timor is dependent) to find a solution to the 18-year-long conflict, have led to a situation in which the political interests of the occupying government prevail and outweigh any attempts to achieve juridical objectivity by trying East Timorese people. The juridical positivism which Indonesia uses to justify the trial of East Timorese, is totally lacking in credibility and impartiality because it is guided by Indonesia's policy of imposing its position on the question of East Timor, which it unilaterally claims to be a fait accompli.

#### D. The Sentence of the Court

As had been anticipated right from the start of the proceedings, the defendants were given the maximum sentences for Subversion and Separatism.

The sentence passed by the Court of the occupying government never took into account the juridical status of the territory of East Timor or the defendants' testimonies. On the contrary, the defendants' testimonies were arbitrarily used, and turned into "judex facta" to incriminate and condemn them.

It should be noted that the false information given during the trial, especially the accusation that the demonstrators were in possession of firearms (though the Court was unable to produce any proof in support of this, other than the statements of the witnesses who had been previously instructed by the SGI) was taken into consideration by the court as "judex facta" to find the defendants guilty of being the masterminds and leaders of the demonstration.

(...)

We end here, convinced that the international jurists' organisation which you Chair will bring the dawn of a new day of justice to our people, who have been longing for it for 18 years.

Respectfully yours,

1. Francisco Miranda Branco    2. Jacinto das Neves R. Alves    3. Gregorio da Cunha Saldanha  
4. Filomeno da Silva Ferreira    5. Juvencio de Jesus Martins    6. Saturnino da Costa Belo